

SERVICE DATE – JUNE 7, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36033

READING BLUE MOUNTAIN & NORTHERN RAILROAD COMPANY—  
ACQUISITION AND OPERATION EXEMPTION—LOCUST VALLEY  
COAL COMPANY D/B/A LOCUST VALLEY LINE

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:<sup>1</sup> This decision allows Reading Blue Mountain & Northern Railroad Company, a Class III rail carrier, to acquire from Locust Valley Coal Company d/b/a Locust Valley Line, and continue to operate, 5.5 miles of rail line in Pennsylvania. The decision also waives the 60-day advance notice requirement to employees because no employees would be adversely affected.

Decided: June 2, 2016

On May 9, 2016, Reading Blue Mountain & Northern Railroad Company (RBMN), filed a request for a waiver of the employee notice requirements of 49 C.F.R. § 1150.42(e). The waiver request is related to a verified notice of exemption concurrently filed by RBMN in this docket under 49 C.F.R. § 1150.41 to acquire and continue to operate a 5.5-mile line of railroad in Pennsylvania, in which RBMN certified that its projected annual revenues as a result of this transaction would exceed \$5 million.<sup>2</sup> Unless waived, § 1150.42(e) would require RBMN, at least 60 days before the notice of exemption can become effective, to serve a notice of its intention to undertake the proposed transaction on the national offices of the labor unions with employees on the affected line, post a copy of the notice at the workplace of the employees on the affected line, and certify to the Board that it has done so. No opposition to this waiver request has been filed.

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

<sup>2</sup> Applicants with transactions exceeding \$5 million are required to meet the requirements of § 1150.42(e).

## BACKGROUND

Concurrently with the filing of the petition for waiver, RBMN filed its verified notice of exemption<sup>3</sup> to acquire and continue to operate 5.5 miles of rail line between milepost 0.0 at Laurel Jct. (also known as Maria Jct.) in Delano Township and milepost 5.5 (beyond Newton Jct. and south of Mahanoy City) in Mahanoy Township, Schuylkill County, Pa. (the Line).<sup>4</sup> RBMN would acquire the Line from Locust Valley Coal Company d/b/a Locust Valley Line (Locust Valley).<sup>5</sup>

Because RBMN is currently operating the Line and would continue to do so, RBMN requests a waiver so that the authority it seeks in its exemption notice can become effective without providing the 60-day advance notice to employees. RBMN asserts that it is merely acquiring the title to the Line, and that no RBMN employees would be affected or any operational changes would arise from this transaction. RBMN states that it has been the sole operator over the Line since 2006, and will continue to provide the same common carrier service it currently provides.

## DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation. The Board takes seriously the requirements of the rule, but it does not appear that the purpose behind the notice requirements would be thwarted if the requested waiver is granted in this case.

The record indicates that no employees would be adversely affected by a waiver of the requirements here. RBMN employees would continue to provide the same service that RBMN has provided since 2006. Locust Valley employees have performed no work on the Line. Because no employees would be adversely affected by the waiver of the 60-day notice period, we will grant the waiver request, allowing the related exemption authority to acquire and operate the Line to become effective on June 8, 2016.

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<sup>3</sup> Notice of the exemption was served and published in the Federal Register on May 26, 2016 (87 Fed. Reg. 33,576). But for the labor notice requirements, the exemption would become effective on June 8, 2016, 30 days after RBMN's verified notice was filed.

<sup>4</sup> RBMN was granted authority to operate the 5.5-mile line in Reading Blue Mountain & Northern Railroad—Operation Exemption—Locust Valley Line, FD 34785 (STB served Dec. 29, 2005).

<sup>5</sup> Locust Valley was granted authority to acquire the line in Locust Valley Coal Co.—Acquisition Exemption—Rail Lines in Schuylkill County, Pa., FD 34642 (STB served Jan. 21, 2005).

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. RBMN's request for waiver is granted, and the exemption authority to acquire and operate the Line is effective on June 8, 2016.

2. This decision is effective on its date of service.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.